

Exhibit B - Parties' Preliminary Claim Constructions

	Term	Patent (claims)	Audible Magic Construction	Blue Spike Construction
1	Presenting said content-related data on said client media player	'308 (1)	<p>“causing the content-related data to be displayed on the client media player”</p> <p><u>Intrinsic Evidence:</u></p> <p>'308 Patent Col. 3:66-4:12; 6:11-8:32; 8:60-64;10:18-47.</p>	<p>“The act of displaying song information on an end user’s media player ”</p> <p><u>Intrinsic Evidence:</u></p> <p>'308 Patent, Claims 1-15. AUDMAG0000001-15, 149, 196, 198, 212, 226, 235, 255, 270, 268-281, 277, 296, 299, 288-301, 16-301.</p> <p>Applicant’s Statement dated April 4, 2004 at 12 (“Thus, one skilled in the art can ascertain that analytical representation means a ‘fignerprint’ [sic] or ‘signature’ generated from conventional digital signal processing known in the art. Thus, the generating of theses is known in the art and one skilled in the art will be able to discern what is meant by analytical representation. The Examiner is reminded there is no in <i>haec verba</i> requirement and that no matter is entered if limitation is supported by an explicit, implicit or inherent in the claim. <i>See</i> MPEP §2163.07. Therefore, the term is taught and the rejection should be removed.”).</p> <p>Applicant’s Statement dated April 4, 2004 (“As stated in MPEP 2131 in order to anticipate a claim, a reference must</p>

				<p>teach every element of the claim. Since the Roberts reference does not teach a sample or analytical representation of a segment of media content of a single work of a recording presented on the client media player, where the media content is data of a recording presented on the client media player. Roberts does not teach every element of claim 1 and the rejection must be removed. Applicants respectfully request that claim 1 be allowed.”)</p>
2	Segment	'308 (1)	<p>Plain and ordinary meaning.</p> <p><u>Intrinsic Evidence:</u> '308 Patent Col. 2:49-12:29.</p>	<p>“Any of the parts into which something can be divided”</p> <p>A segment is less than the whole.</p> <p><u>Intrinsic Evidence:</u></p> <p>'308 Patent, Claims 1-15. AUDMAG0000001-15, 149, 196, 198, 212, 226, 277, 296, 299, 288-301, 16-301.</p>
3	Measuring acoustical/perceptual features of said segment	'308 (1)	<p>Plain and ordinary meaning.</p> <p><u>Intrinsic Evidence:</u> '308 Patent Col. 2:49-12:29.</p>	<p>“To make a measurement of acoustical/perceptual features of said segment”</p> <p><u>Intrinsic Evidence:</u></p> <p>'308 Patent, Claims 1-15. AUDMAG0000001-15, 149, 196, 198, 212, 226, 277, 296, 299, 288-301, 16-301.</p>
4	Comparing said analytical representation to a collection of	'308 (1)	<p>“comparing said analytical representation to a collection of analytical representation[s] of</p>	<p>Analytical representation: “A digital fingerprint of a particular segment measuring acoustical/perceptual features of said segment”</p>

	analytical representation of reference sampled media content		reference sampled media content” <u>Intrinsic Evidence:</u> '308 Patent Col. 2:49-12:29.	<u>Intrinsic Evidence:</u> AUDMAG00000001-15, 149, 196, 198, 212, 226, 235, 255, 270, 268-281, 277, 296, 299, 288-301, 16-301. Referenced sampled media: “The collection of stored reference samples” <u>Intrinsic Evidence:</u> AUDMAG00000001-15, 149, 196, 198, 212, 226, 235, 255, 270, 268-281, 277, 296, 299, 288-301, 16-301.
5	Client Media Player	'308 (1)	Plain and ordinary meaning. <u>Intrinsic Evidence:</u> '308 Patent Col. 2:49-12:29.	“End user’s media player” Not the media player of a person or entity providing the service. <u>Intrinsic Evidence:</u> Title of US Patent 6,834,308B1, “Method and Apparatus For Identifying Media Content Presented On A Media Device” Figure 1 of the '308 Patent. AUDMAG00000006, 8, 9, 10, 11, 12, 13, 14, 149, 196, 198, 212, 226, 235, 255, 270, 268-281, 277, 296, 299, 288-301. <u>Intrinsic Evidence:</u> 308 Patent, Claims 1. Unasserted 308 Patent, Claims 9, 11, 13, 15. AUDMAG00000008, 10, 149, 196, 198, 212, 226, 235, 255, 270, 268-281, 277, 296, 299, 288-301.
6	Digital	'308 (1)	Plain and ordinary meaning.	“a series of binary digits—I's and 0's.”

			<p><u>Intrinsic Evidence:</u> '308 Patent Col. 2:49-12:29.</p>	<p><u>Intrinsic Evidence:</u></p> <p>308 Patent, Claims 1. Unasserted 308 Patent Claims 9, 11, 13, 15. AUDMAG0000008, 10, 149, 196, 198, 212, 226, 235, 255, 270, 268-281, 277, 296, 299, 288-301.</p>
7	Digital Fingerprint	'308 (1)	<p>Digital identifier.</p> <p><u>Intrinsic Evidence:</u> '308 Patent Col. 2:49-12:29.</p>	<p>“coded string of binary digits that uniquely identifies a signal”</p> <p><u>Intrinsic Evidence:</u></p> <p>308 Patent, Claims 1. Unasserted Claims 9, 11, 13, 15.</p> <p>AUDMAG0000008, 10, 149, 196, 198, 212, 226, 235, 255, 270, 268-281, 277, 296, 299, 288-301.</p> <p>Applicant’s Statement dated April 4, 2004 at 12 (“Thus, one skilled in the art can ascertain that analytical representation means a ‘fignerprint’ [sic] or ‘signature’ generated from conventional digital signal processing known in the art. Thus, the generating of theses is known in the art and one skilled in the art will be able to discern what is meant by analytical representation. The Examiner is reminded there is no in <i>haec verba</i> requirement and that no matter is entered if limitation is supported by an explicit, implicit or inherent in the claim. <i>See</i> MPEP §2163.07. Therefore, the term is taught and the rejection should be removed.”).</p> <p>Applicant’s Statement dated April 4, 2004 (“As stated in</p>

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8	Reference Sampled Media	'308 (1)	Construed as part of larger phrase.	<p>“The collection of stored reference samples.”</p> <p><u>Intrinsic Evidence:</u> 308 Patent, Claims 1. Unasserted Claims 2-15.</p> <p>AUDMAG0000001-15, 149, 196, 198, 212, 226, 235, 255, 270, 268-281, 277, 296, 299, 288-301, 16-301.</p>